

Ashley M. Gjovik, JD
Pro Se Plaintiff
2108 N St. Ste. 4553
Sacramento, CA, 95816
(408) 883-4428
legal@ashleygjovik.com

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case No. 3:23-CV-04597-EMC

ASHLEY GJOVIK, an individual,
Plaintiff,
v.
APPLE INC, a corporation,
Defendant.

DECLARATION OF ASHLEY GJOVIK,
IN OPPOSITION,
TO DEFENDANT'S REQUEST FOR
JUDICIAL NOTICE

As Required by Civil L.R. 7-3, 7-5

**I. DECLARATION OF ASHLEY GJOVIK IN OPPOSITION TO DEFENDANT
APPLE'S REQUEST FOR JUDICIAL NOTICE**

Pursuant to 28 U.S.C. § 1746, I, Ashley M. Gjovik, hereby declare as follows:

1. My name is Ashley Marie Gjovik. I am a self-represented Plaintiff in this above captioned matter. I make this Declaration based upon my personal knowledge and in support of Plaintiff's Opposition (Docket No. 52) to Defendant's Motion Requesting Judicial Notice (Docket No. 50). I have personal knowledge of all facts stated in this Declaration, and if called to testify, I could and would testify competently thereto.

2. Exhibits are attached to this declaration in pages 4-13, in order to substantiate statements in the declaration, but they are only intended to be procedural evidence, not substantive – with the objective of trying to show that Apple is being deceptive in their pleadings.

3. On August 31 2021, I filed a TCR complaint to the US SEC against multiple named parties including Apple, Northrop Grumman, GI Partners LP, Hines Interests LP, Oaktree Capital Management, and Ronald Sugar. The TCR submission included entries in several text fields and numerous attached documents. In my text field entries, I used the terms "fraudulent" and "illegal," and in the attachments I also attached a formal complaint I made to Apple prior to my termination, and the memo I drafted and attached to that complaint repeatedly complained of fraud and misrepresentations, using those terms.

4. Between the time I filed the SEC complaint on August 31 2021, and when Apple terminated my employment on September 9 2021, I shared my SEC complaint and related concerns directly with Apple executives, with US government agencies, and I spoke about it publicly on social media and with the press.

5. The US Department of Labor Whistleblower Protection Program had docketed my SOX whistleblower retaliation claim in December of 2021 and the case was open and being investigated until I removed the SOX claim to this civil lawsuit in September of 2023.

6. Attached as [Exhibit A](#) is a true and correct copy of the notice from US Department of Labor about the docketing. The SOX case with US Department of Labor included more claims than what was in my August 31 2021 SEC complaint, but also the SEC complaint and its contents. Attached as [Exhibit B](#) is a true and correct copy of the some of the news coverage of the case.

7. I signed hundreds of employment agreements while I worked at Apple. Prior to my termination, I expressed to Apple and my coworkers that I believed many of those agreements were not lawful. I filed an NLRB charge against Apple in October 2021 where I alleged Apple's

1 employment agreements and NDAs violate the NLRA. In January 2023 the US NLRB issued a
 2 Decision of Merit on my claims. Apple knows this and the decision was covered in major
 3 newspapers. Attached as [Exhibit C](#) is a true and correct copy of the notice from US NLRB about
 4 the Decision of Merit.

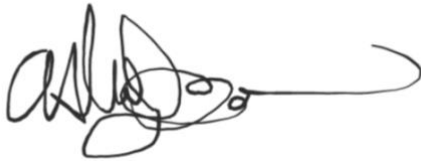
5 8. While preparing my Opposition to Apple's Request for Judicial Notice and two
 6 other Motions, I struggled to obtain access to multiple cases they cited as they were not readily
 7 available to the public. I also struggled to understand how those cases applied to this case. For the
 8 case Apple cited as legal authority for their request about my SEC Submission, I could not find
 9 the case anywhere, and I do not have Westlaw access to cases (I cannot afford the subscription),
 10 so I did search and purchase the decision on PACER.

11 9. Due to the short-time frame to respond to all of Apple's Motions, I submitted my
 12 Oppositions with regrettable typos. My Opposition to Apple's Request for Judicial Notice includes
 13 two bad typos where ¶ 1 is an incorrect duplication of the introduction to a different motion and
 14 the text of ¶ 1 after "Docket No. 48" should be disregarded. In addition, on pages 1-12, the footer
 15 incorrectly says "Motion to Strike" but the document is a "Request for Judicial Notice." If I had
 16 more time and was not already late in submitting my Oppositions, I would have spent more time
 17 proofreading and editing. I apologize.

18 10. I declare under penalty of perjury under the laws of the United States that the
 19 foregoing is true and correct and that this declaration was executed on APRIL 16 2024.

20 **Executed on:** APRIL 16 2024

21 Signature:

22 

23 _____
 24
 25 **s/ Ashley M. Gjovik**
 26 **Pro Se Plaintiff**

27 **Email:** legal@ashleygjovik.com

28 **Physical Address:** Boston, Massachusetts

Mailing Address: 2108 N St. Ste. 4553 Sacramento, CA, 95816

Phone: (408) 883-4428

EXHIBIT A

EXHIBIT A: US Dept. of Labor Docketing

U.S. Department of Labor

**Occupational Safety and Health Administration
San Francisco Federal Building
90 7th Street, Suite 2650
San Francisco, CA 94103**



Via Electronic Mail
December 10, 2021

Ashley Gjovik
1050 Benton Street, Apt. 2310
Santa Clara, CA 95050
ashleymgjovik@protonmail.com

Complainant(s): Ashley Gjovik
Respondent(s): Apple Inc.
Case Number: Apple Inc./Gjovik/9-3290-22-051
Law/Statute 1: Section 11(c) of the Occupational Safety and Health Act (OSHA), 29 U.S.C. §660
Law/Statute 2: Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9610
Law/Statute 3: Sarbanes-Oxley Act (SOX), 18 U.S.C.A. §1514A
Regulation 1: OSHA 11(c) Complaint Procedures: 29 CFR Part 1977
Regulation 2: EPA Complaint Procedures: 29 CFR Part 24
Regulation 3: SOX Complaint Procedures: 29 CFR Part 1980

Dear Ms. Gjovik:

This office has received a complaint filed by the above-named Complainant(s) against the above-named Respondent(s). The complaint alleges retaliatory employment practices in violation of the Law(s)/Statute(s) cited above. A copy of the complaint allegation is enclosed.

The Occupational Safety and Health Administration's Whistleblower Protection Program (WPP) is responsible for enforcing the anti-retaliation provisions of the law(s) cited above and will conduct its investigation following the procedures outlined in the regulation(s) cited above. You may obtain a copy of the law(s) and regulation(s) at: www.whistleblowers.gov. Upon request, a printed copy of these materials will be mailed to you.

WPP has provided a copy of the complaint to Respondent(s) and has requested a written position statement. You will receive a copy of the position statement(s) with any supporting evidence and will be given an opportunity to respond.

You have the right to be represented in this matter. If you choose to have a lawyer or someone else represent you, please have that person complete and promptly return to the assigned investigator the enclosed Designation of Representative form.

You are expected to cooperate in this investigation and failure to do so may cause the complaint to be dismissed.

WPP will send most, if not all, correspondence by email - this includes final disposition letters that include time sensitive appeal rights.

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EXHIBIT B

EXHIBIT B: US DOL SOX Case In Financial Times

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FINANCIAL TIMES

Technology

Apple probed over fired whistleblower

Former manager claims company retaliated after harassment complaints

PATRICK MCGEE — SAN FRANCISCO
PATRICK TEMPLE-WEEST — NEW YORK

The US Department of Labor is investigating Apple over claims that it retaliated against an employee who complained of workplace harassment and unsafe working conditions.

Ashley Gjovik, 35, had been a senior engineering program manager for six years at Apple when she was fired in September for allegedly leaking confidential information.

Gjovik, who has written on Twitter about her allegations of harassment, surveillance and workplace safety issues, alleged that she was dismissed under a false pretext after several complaints that led to more than a dozen instances of retaliation including job reassignment.

The labour department declined to comment but confirmed its investigation in a letter to Gjovik seen by the Financial Times, dated December 10.

Stephen Kohn, an employment lawyer, said the burden of proof needed for the agency to open an investigation was high, and that the case would be closely watched because it was especially rare for a labour dispute with Big Tech “to break into the public” domain. The labour department rarely investigated such cases, he said, because of the widespread use of non-disclosure agreements to “silence” whistleblowers.

Apple declined to discuss specific employee matters, citing privacy, but said: “We are and have always been deeply committed to creating and maintaining a positive and inclusive workplace. We take all concerns seriously and we thoroughly investigate whenever a concern is raised.”

For Apple, the probe could mark the most significant setback in a series of labour disputes this year that included a shareholder proposal requesting more information about the company’s use of non-disclosure agreements. Gjovik’s original complaints stemmed from mid-March, when she cited “chemical exposure” concerns at her Apple office in Sunnyvale, California.

The facility is located on a so-called Superfund site, requiring special oversight owing to previous contamination by hazardous waste materials beneath the building.

When Apple sent an email about wanting to test the site for “vapour intrusion”, Gjovik’s questions about it were rebuffed by Apple’s employee relations department.

“They intimidated me not to speak about my safety concerns,” Gjovik alleged.

The labour department will examine whether Apple retaliated over claims about occupational safety and hazardous waste management liability, alongside another allegation that falls under the Sarbanes-Oxley Act, or Sox, which sets out the rules for financial record keeping.

Gjovik pointed to a potential conflict of interest regarding Apple board member Ronald Sugar, chair of the audit committee, as he was previously chief executive of Northrop Grumman, the defence company responsible for the dump — and maintenance — of waste materials beneath the Sunnyvale office.

Sugar could not be immediately reached for comment.

Apple Inc

Apple faces probe over whether it retaliated against whistleblower

US labour department inquiry follows claims by ex-senior engineering program manager



The US Department of Labor will focus on whether Apple retaliated against a whistleblower who claimed there were poor working conditions at the company © Stephane Mahe/Reuters

Patrick McGee in San Francisco and Patrick Temple-West in New York DECEMBER 13 2021

The US Department of Labor is investigating Apple over claims that it retaliated against an employee who complained of workplace harassment and unsafe working conditions.

Ashley Gjovik, 35, had been a senior engineering program manager for six years at Apple when she was [fired in September](#) for allegedly leaking confidential information.

Gjovik, who has written regularly on Twitter about her allegations of harassment, surveillance and workplace safety issues, alleged that she was dismissed under a false pretext following numerous complaints that led to more than a dozen instances of retaliation including job reassignment.

The labour department declined to comment but confirmed its investigation in a letter to Gjovik seen by the Financial Times, dated December 10.

Stephen Kohn, an employment lawyer and an expert in US whistleblowing law, said the burden of proof needed for the agency to open an investigation was high, as the employee must have already established enough evidence that, unless rebutted, would prove the case.

He said the case would be closely watched because it was especially rare for a labour dispute with Big Tech "to break into the public" domain. The labour department rarely investigated such cases, he added, because of the widespread [use of non-disclosure agreements](#) to "silence and intimidate whistleblowers".

Apple declined to discuss specific employee matters, citing privacy, but said: "We are and have always been deeply committed to creating and maintaining a positive and inclusive workplace. We take all concerns seriously and we thoroughly investigate whenever a concern is raised."

Mary Inman, head of the international whistleblower practice at the law firm Constantine Cannon, described the case as "a breath of fresh air" as Joe Biden's administration signals a more aggressive stance to [hold companies to account](#).

Last month, the labour department's top attorney announced an initiative to collaborate with other civil law enforcement agencies to protect workers from discrimination and misconduct.

For Apple, the investigation could mark the most significant setback in a series of labour disputes this year that included [a shareholder proposal](#) requesting more information about the company's use of nondisclosure agreements. The proposal alleged the iPhone maker extended its culture of secrecy into workplace areas protected by state and federal laws.

<https://www.ft.com/content/973aac8d-21d9-4e84-8912-ead071c7935d>

Gjovik's original complaints stemmed from mid-March, when she cited "chemical exposure" concerns at her Apple office in Sunnyvale, California. The facility is located on a Superfund site, requiring special oversight owing to previous contamination by hazardous waste materials beneath the building.

When Apple sent an email about wanting to test the site for "vapour intrusion", Gjovik's questions about it were rebuffed by Apple's employee relations department. "They intimidated me not to speak about my safety concerns," Gjovik alleged.

The labour department will examine whether Apple retaliated over claims about occupational safety and hazardous waste management liability, alongside a third allegation that falls under the Sarbanes-Oxley Act, or Sox, which sets out the rules for financial record keeping.

Gjovik pointed to a potential conflict of interest regarding Apple board member Ronald Sugar, chair of the audit committee, as he was previously chief executive of Northrop Grumman, the defence company responsible for the dump — and maintenance — of waste materials beneath the Sunnyvale office.

Sugar could not be immediately reached for comment.

Gjovik's case was "especially unusual" and noteworthy because of the three separate statutes or laws that may have been broken, said Michael Duff, a former attorney at the National Relations Labor Board.

"Federal agencies exercise what in the context of criminal law is known as prosecutorial discretion," he said. "They are very careful of what cases they move forward because they have scarce resources, so they must have a strong reason to believe they can prevail."

Other prominent investigations by the labour department included allegations that Google had a "systemic" problem [underpaying female employees](#). The case was resolved this year, with the search giant agreeing to pay \$3.8m.

Palantir, a data analytics company, [in 2017 paid](#) the labour department \$1.6m to settle allegations that it discriminated against Asian candidates in recruiting engineers.

Seth Goldstein, a pro-bono attorney who has been representing Amazon employees alleging unfair labour practices, said Gjovik's actions were a reflection of her generation wanting companies to live up to the values they espoused. "It's a sea change in the fact that people are standing up for what's right," he said.

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Link: <https://www.ft.com/content/973aae8d-21d9-4e84-8912-ead071c7935d>

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EXHIBIT C

EXHIBIT C: NLRB DECISION OF MERIT**NLRB Cases 32-CA-284428 & 32-CA-284441 (Apple): Current Case Status**

From Sollett, Mathew <Mathew.Sollett@nrb.gov>

☆ 2:00 PM

To Ashley Gjovik, cfoster@mwe.com, Mannan, Syed

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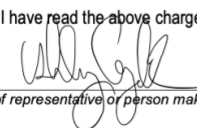
CAUTION: This email and any attachments may contain Controlled Unclassified Information (CUI). National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

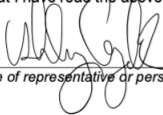
I am writing to provide you with an update on several outstanding unfair labor practice charges filed against Apple. The Division of Advice has responded to Region 32's request for guidance in cases 32-CA-284428 and 32-CA-284441 and has instructed the Region to issue a Complaint, absent settlement, alleging various violations of Section 8(a)(1) of the National Labor Relations Act regarding Apple rules/policies and various unlawful statements by Apple supervisors/managers. As soon as possible, the Region will contact the parties individually to discuss the meritorious allegations in further detail and to explore the possibility of pre-Complaint settlement.

Thank you very much,

Mathew Sollett, Field Attorney
National Labor Relations Board, Region 21
312 N. Spring Street, 10th Floor
Los Angeles, CA 90012
Phone: 213-634-6522
Fax: 213-894-2778

My Pronouns: he/him/his

INTERNET FORM NLRB-501 (2-08)		UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER		FORM EXEMPT UNDER 44 U.S.C 3512 DO NOT WRITE IN THIS SPACE	
		Case 32-CA-284428	Date Filed 10-12-2021		
INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.					
1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT					
a. Name of Employer Apple Inc.			b. Tel. No. (408) 996-1010		
d. Address (Street, city, state, and ZIP code) One Apple Park Way, Cupertino, CA 95014			e. Employer Representative Tim Cook Chief Executive Officer		
			c. Cell No.		
			f. Fax No.		
i. Type of Establishment (factory, mine, wholesaler, etc.) Office complex			g. e-Mail		
			h. Number of workers employed 200+		
j. Identify principal product or service Computer hardware			k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		
l. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Within the past six months and continuing to the present date, the above-named employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by promulgating, maintaining, and enforcing work rules that prevent or discourage employees from engaging in protected concerted activities, including the employment agreement policy, the confidentiality agreement policy, the business conduct policy, and other policies enforced against employees contained within the employee handbook.					
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Ashley Marie Gjovik					
4a. Address (Street and number, city, state, and ZIP code) 1050 Benton Street, #2310, Santa Clara, CA 95050			4b. Tel. No. (415) 964-6272		
			4c. Cell No.		
			4d. Fax No.		
			4e. e-Mail ashleymgjovik@protonmail.com		
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)					
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. By  Ashley Gjovik, an Individual (signature of representative or person making charge) (Print/type name and title or office, if any)			Tel. No. (415) 964-6272		
1050 Benton Street, #2310, Santa Clara, CA 95050 Address (date)			Office, if any, Cell No.		
			Fax No.		
			e-Mail ashleymgjovik@protonmail.com		
WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)					
PRIVACY ACT STATEMENT					
Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.					

INTERNET FORM NLRB-501 (2-08)	UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER	FORM EXEMPT UNDER 44 U.S.C 3512 DO NOT WRITE IN THIS SPACE
		Case 32-CA-284441
		Date Filed 10/13/21
INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.		
1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT		
a. Name of Employer Apple Inc.	b. Tel. No. (408) 996-1010 c. Cell No. f. Fax No. g. e-Mail h. Number of workers employed 200+	
d. Address (Street, city, state, and ZIP code) One Apple Park Way, Cupertino, CA 95014	e. Employer Representative Tim Cook Chief Executive Officer	
i. Type of Establishment (factory, mine, wholesaler, etc.) Office complex	j. Identify principal product or service Computer hardware	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Since on or about September 21, 2021, the above-named employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by promulgating, maintaining, and enforcing work rules that prevent or discourage employees from engaging in protected concerted activities.		
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Ashley Marie Gjovik		
4a. Address (Street and number, city, state, and ZIP code) 1050 Benton Street, #2310, Santa Clara, CA 95050	4b. Tel. No. (415) 964-6272 4c. Cell No. 4d. Fax No. 4e. e-Mail ashleymgjovik@protonmail.com	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)		
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. By  Ashley Gjovik, an Individual (signature of representative or person making charge) (Print/type name and title or office, if any)		Tel. No. (415) 964-6272 Office, if any, Cell No. Fax No. e-Mail ashleymgjovik@protonmail.com
Address 1050 Benton Street, #2310, Santa Clara, CA 95050		Oct 12 2021 (date)
WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)		
PRIVACY ACT STATEMENT		
Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.		